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DEPARTMENT OF ENERGY

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Guidelines for Voluntary Greenhouse Gas Reporting

AGENCY: Office of Policy and International Affairs, U.S. Department of Energy.

ACTION: Final rule.

SUMMARY: Section 1605(b) of the Energy Policy Act of 1992 directed the Department of Energy (DOE) to issue guidelines establishing a voluntary greenhouse gas reporting program. On February 14, 2002, the President directed DOE, together with other involved Federal agencies, to recommend reforms to enhance the Voluntary Reporting of Greenhouse Gases Program established by DOE in 1994. DOE issued interim final General Guidelines on March 24, 2005, and also on that date published a notice of availability inviting public comment on draft Technical Guidelines needed to fully implement the revised Voluntary Reporting of Greenhouse Gases Program. This notice of final rulemaking responds to public comments on the interim final General Guidelines and draft Technical Guidelines; sets forth the final General Guidelines; and announces the availability of the final Technical Guidelines.

EFFECTIVE DATE: The final General Guidelines and Technical Guidelines are effective June 1, 2006. The incorporation by reference of the Technical Guidelines is approved by the Director of the Federal Register as of June 1, 2006.

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I. Introduction

A. Background.

Section 1605(b) of the Energy Policy Act of 1992 (EPACT) directs the Department of Energy, with the Energy Information Administration (EIA), to establish a voluntary reporting program and database on emissions of greenhouse gases, reductions of these gases, and carbon sequestration activities (42 U.S.C. 13385(b)). Section 1605(b) requires that DOE's guidelines provide for the "accurate" and "voluntary" reporting of information on: (1) greenhouse gas emission levels for a baseline period (1987-1990) and thereafter, annually; (2) greenhouse gas emission reductions and carbon sequestration, regardless of the specific method used to achieve them; (3) greenhouse gas emission reductions achieved because of voluntary efforts, plant closings, or state or federal requirements; and (4) the aggregate calculation of greenhouse gas emissions by each reporting entity (42 U.S.C. 13385(b)(1)(A)-(D)). Section 1605(b) contemplates a program whereby voluntary efforts to reduce greenhouse gas emissions can be recorded, with the specific purpose that this record can be used "by the reporting entity to demonstrate achieved reductions of greenhouse gases" (42 U.S.C. 13385(b)(4)).

In 1994, after notice and public comment, DOE issued General Guidelines and sector-specific guidelines that established the Voluntary Reporting of Greenhouse Gases

Program for recording voluntarily submitted data and information on greenhouse gas emissions and the results of actions to reduce, avoid or sequester greenhouse gas emissions. The 1994 General Guidelines and supporting documents may be accessed at <http://www.eia.doe.gov/oiaf/1605/guidelns.html>. The Guidelines were intentionally flexible to encourage the broadest possible participation. They permit participants to decide which greenhouse gases to report, and allow for a range of reporting options, including reporting of total emissions or emissions reductions or reporting of just a single activity undertaken to reduce part of their emissions. From its establishment in 1995 through the 2004 reporting year, 417 entities, including utilities, manufacturers, coal mine operators, landfill operators and others, have reported their greenhouse gas emissions and/or their emission reductions to EIA.

On February 14, 2002, the President directed the Secretary of Energy, in consultation with the Secretary of Commerce, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, to propose improvements to the current section 1605(b) Voluntary Reporting of Greenhouse Gases Program. These improvements are to enhance measurement accuracy, reliability, and verifiability, working with and taking into account emerging domestic and international approaches.

On May 6, 2002, DOE published a Notice of Inquiry soliciting public comments on how best to improve the Voluntary Reporting of Greenhouse Gases Program (67 FR 30370). Written comments were received from electric utilities; representatives of energy, manufacturing and agricultural sectors; Federal and State legislators; State agencies; waste management companies; and environmental and other non-profit research and advocacy organizations. DOE

held public workshops in Washington, D.C., Chicago, San Francisco and Houston during November and December of 2002 to receive information and hear the views of interested persons. In addition, the U.S. Department of Agriculture sponsored two workshops in January 2003 to solicit input on the accounting rules and guidelines for reporting greenhouse gas emissions in the forestry and agriculture sectors. These workshops explored in greater depth many of the issues raised in the Notice of Inquiry and addressed in the written comments.

On December 5, 2003, DOE proposed revised General Guidelines (68 FR 68204). A public workshop was held on January 12, 2004, to discuss that proposal and to receive public comment. Approximately 200 persons attended the workshop. In addition, over 300 written comments were received by the close of the public comment period on February 17, 2004.

DOE published interim final revised General Guidelines on March 24, 2005 (70 FR 15169), and, in a notice published in the *Federal Register* on the same day, made available for public comment the draft Technical Guidelines necessary to fully implement the revisions to the Voluntary Program (70 FR 15164). DOE sponsored a public workshop on these revised guidelines on April 26 and 27, 2005, and USDA and DOE co-sponsored another workshop on May 5, 2005. In response to public comments, DOE extended the period for comments on the revised guidelines by 30 days to June 22, 2005. Ultimately, DOE received over 90 written comments, totaling over 1000 pages. All written comments and transcripts of the public workshops are available on the web and can be accessed at: <http://www.pi.energy.gov/enhancingGHGregistry/>. On September

19, 2005, DOE published a notice in the Federal Register delaying the effective date of the interim final guidelines until June 1, 2006 (70 FR 54835).

DOE now publishes final General Guidelines and announces the availability of final Technical Guidelines that are incorporated by reference in the General Guidelines. The revised General and Technical Guidelines are designed to enhance the measurement accuracy, reliability and verifiability of information reported under the 1605(b) program and to contribute to the President's climate change goals. The key elements of the revised guidelines remain the same as those present in the interim final General Guidelines:

- Enable larger emitters to register reductions if they provide entity-wide emissions data and can demonstrate they achieved entity-wide emission reductions that contribute to the President's goal of reducing the greenhouse gas emissions of the U.S. economy.
- Provide for simplified procedures for small emitters to report and to register reductions.
- Provide for simplified reports from entities that do not want to register their reductions.
- Encourage companies and other reporting entities to report at the highest level.
- Require participants to ensure the accuracy and completeness of their reports, and encourage independent verification.
- Allow participants to report and register reductions achieved internationally.

Based on the framework set forth by the interim final guidelines and the various improvements made in response to the public comments received, today's final revised guidelines will enhance:

- Measurement accuracy by creating a ranking system for methods to calculate emissions, incorporating the best available inventory methods, and enabling more sources to be covered;
- Reliability by creating a more systematic approach to reporting, stressing inventories and entity-wide reporting; and
- Verifiability by creating a more transparent reporting system for emissions and reductions, requiring recordkeeping and encouraging independent verification.

The Secretary of Energy has approved issuance of this final rule.

B. Process for implementing the guidelines.

The General Guidelines set forth in this notice and the Technical Guidelines incorporated by reference will go into effect on June 1, 2006. In the near future, EIA intends to make available for public review and comment draft forms for collecting the data covered by these guidelines, including the Simplified Emissions Inventory Tool (SEIT) referenced in the guidelines. After taking into account any public comments it receives and complying with the requirements of the Paperwork Reduction Act of 1995, EIA anticipates that final forms will be issued before the end of 2006. In addition, EIA will be developing the software necessary to permit electronic reporting and the creation of an automated and widely accessible data base. EIA does not anticipate completing the

necessary software until mid- 2007. If time and resources permit, EIA may conduct cognitive testing of beta versions of the reporting software. Should EIA conduct such testing, EIA will solicit potential participants via a public notice, postings to its website, or some other means. According to the forms and software schedule currently anticipated by EIA, the revised guidelines will be used to govern the 2007 reporting cycle. Until then, entities interested in reporting under the program during the 2006 reporting cycle should use the existing guidelines and forms.

II. Overview of Major Changes Made in Response to Comments

The public comments received by DOE expressed considerable support for the emphasis of the revised guidelines on entity-wide reporting on all greenhouse gas emissions, including the added requirements imposed on entities that are seeking to register reductions. There was also substantial support for DOE's efforts to enhance the quality, consistency and credibility of the emission inventories and reductions being reported. The comments, however, raised a number of concerns regarding the potential burdens of reporting under the revised guidelines, possible incompatibilities with various existing reporting programs or protocols, and the limitations on reporting certain types of emission reductions, especially those occurring outside the boundaries of the reporting entity. While the basic framework of the guidelines remains the same, DOE has made a number of changes designed to address these concerns, and has adopted many of the specific recommendations made during the comment period.

To reduce the potential burdens of reporting under the revised guidelines, DOE's final guidelines:

- Enable entities that have their reports independently verified or that certify their use of higher quality inventory methods to file less detailed reports;
- Increase the ratings of some commonly used methods for estimating emissions;
- Enable reports on non-U.S. emissions to be consolidated regionally or globally (as long as U.S. data is kept separate); and
- Clarify the flexibility available to reporters that wish to avoid or minimize the complexities of accounting for changes in carbon stock or other provisions.

To increase the compatibility of the revised guidelines with various existing reporting programs and protocols, DOE's final guidelines update its references to existing protocols and update the emission factors drawn from such protocols; provide an exception in section 300.5(b) for participants in EPA's Climate Leaders or DOE's Climate VISION who may wish to use base periods that end as early as 2000; and attempt to increase the alignment of various definitions and methods with those used by other existing programs.

To expand the opportunities for reporting offset emission reductions, DOE's final guidelines, among other things: (1) add new action-specific methods for demand-side management programs, the substitution of fly ash for cement by concrete mixers, and anaerobic digestion of waste at agricultural facilities and wastewater treatment plants; (2) enable multiple reporting entities to register portions of the offset reductions achieved by a single other entity, as long as the other entity complies with all of the requirements for registration and has entered into an agreement with each of the reporting entities; and (3)

